(3)

Before the Honourable High Court of Chhattisgarh,
At Bilaspur (CG.).

Writ Petition No. 835 / 2002.

Petitioner :- M/S Mahabeer Transport Company,
Kusumkasa, Distt. Durg.

Through Its Partner,
Smt. Sushila Bai wd/o Late Mahoharlal Jain.

Vs.

Respondent :- Shri Shanker Rao son of Late Raja Rao.
Akulwar, Resident of Amdi Mandir,
Durg.(C.G.).

Petition under Article 226/227 of the Constitution of India.

(94)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 835 of 2002

Petitioners : M/s Mahaber Transport Company

Versus

Respondents : Shri Shanker Rao

Shri Indrasen Sahu, Advocate for the petitioner.

Shri H. B. Agarwal, Senior Advocate with Miss Sangeeta Mishra, Advocate for the respondent.

O R D E R

(9th November, 2006)

1. The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India for quashing of the order dated 9.4.2002 (Annexure P/1), passed in Case No. 3/ I.D.Act/ 97 (Civil) by the Labour Court Durg.

2. Learned counsel for the petitioner submits that on an application filed by the respondent under Section 33-C (2) of the Industrial Disputes Act, 1947, the Labour Court held that the respondent was a workman as defined under Section 2 (S) of the Industrial Disputes Act. The Labour Court further held that the respondent was appointed orally by the petitioner on monthly pay of Rs. 3,000/- and that he has not been paid wages from 1992 on wards. Accordingly, the Learned Labour Court, decreed the claim of Rs. 2,16,000/- for the period 1992 to 1996 with 6% interest from the date of presentation of the application.

3. Learned counsel appearing for the parties, jointly submit that the question of law involved in this petition whether the application under Section 33-C (2) of the Act, 1947 is maintainable to decide the status of workman and further grant of relief without adjudication before other appropriate forum, is squarely covered by the judgment and order dated 22nd November, 2005 passed by a Division Bench of this Court in W.P.No. 3409 of 2000 (South Eastern Coalfields Limited & another Vs. The General Secretary, M.P. Koyla Mazdoor Sabha & others), on the issue as to whether the Labour Court at Durg is competent under Section 33-C (2) of the Industrial Disputes Act, 1947 to determine and adjudicate upon the issue of reference. It has been informed by learned counsel for the petitioner that the Special Leave Petition No. 1373/2006, filed against the order dated 22.11.2005, has been dismissed by the Hon'ble Supreme Court vide order dated 17.4.2006.

4. The petition is accordingly allowed in terms of the judgment and order dated 22nd November, 2005 passed in W.P.No. 3409 of 2000 (supra). The impugned order dated 9.4.2002 (Annexure P/1) passed by the Labour Court is quashed. The respondent is at liberty to seek redressal of his grievance as per the provisions of law elsewhere before the appropriate forum. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur